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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/926,634   | 02/26/2002  | Albert Modl          | MODL3001/JEK        | 5404             |
| 23364  | 7590        | 05/05/2006           | EXAMINER            |                  |
| BACON & THOMAS, PLLC<br>625 SLATERS LANE<br>FOURTH FLOOR<br>ALEXANDRIA, VA 22314 |             |                      | AKHAVANNIK, HADI    |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2624                |                  |

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/926,634             | MODL ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Hadi Akhavannik        | 2624                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

***Response to Request for Reconsideration***

1. Applicants arguments were convincing and the Examiner has withdrawn finality and reopened prosecution. New action follows.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17-18, 21-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Collot et al. (5042073, referred to as "Collot" herein).

Regarding claim 17, Collet discloses a terminal for authentication by means of biometric data comprising a sensor arranged to detect one biometric feature (figure 1 and figure 2 and column 2 line 60 to column 4 line 12 disclose that a camera and reader are disclosed to capture signature data),

an I/O device for transferring data (column 3 lines 3-40 disclose transferring data),

and a control and data processing unit which is arranged to convert biometric data from the sensor which were derived from the at least one detected biometric feature into comparative data by an algorithm(column 3 lines 41-59 disclose a controller and figures 3-15 and column 4 line 12 to column 10 line 58 disclose converting the biometric using a processor by using multiple algorithms. Each algorithm creates a

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corresponding parameter file for the biometric. Specifically, column 8 lines 37-47 disclose creating parameters for each signature. The parameters that are stored include densities, counter points, and ratios of envelope. Column 4 line 60 to column 5 line 31 disclose storing the signature in many different ways. Each way, such as the number of contour points, represents a different algorithm that is used to store the signature in a different way. Therefore, Collot discloses storing a signature in a multitude of ways and each way of storing uses a different algorithm),

wherein at least two different algorithms are used to convert said biometric data from the sensor into said comparative data (columns 2-10 disclose that there are two algorithms that are used to convert the biometric data because one algorithm is used to transfer the data to the appropriate are of the terminal and a second algorithm is used to convert the biometric data to the proper parameter).

Regarding claims 18, 23-24, Collot discloses that the reference data are transferred by the I/O device from the data carrier to the terminal, and wherein the control and data processing unit are arranged to check the reference data for a match with the comparative data (see the rejection of claim 17 above and figure 16 and column 8 line 51 to column 11 line 2 disclose checking if the reference data and stored data match by taking the difference data). All other aspects of claims 18 and 23-24 are addressed in the rejection of claim 17).

Regarding claims 21 and 25, Collot discloses that the sets of reference data and the algorithms used for generating the sets of comparative data have a characteristic identification, and wherein reference data and comparative data with the same

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identification are checked (column 10 line 45 to column 11 line 2 discloses that the corresponding signatures are compared by using the address identification).

Regarding claims 22, 26, and 31 Collot discloses that that the biometric information is a signature including writing dynamics (column 1 line 67 to column 2 line 35 disclose using signatures as biometric information and column 4 line 60 to column 5 line 33 disclose the different writing dynamics that are used).

Regarding claim 27, Collot discloses that several different sets of reference data are derived and stored, and several different sets of comparative data have been converted from detected biometric data, and wherein the several different sets of reference data are compared with the several different sets of comparative data for authentication (column 4 lines 20-64 and column 8 line 37 to column 11 line 3 discloses that sets of reference and comparative data are stored and compared for authentication).

Regarding claim 28, Collot discloses that the different sets of reference data and the different sets of comparative data are derived and converted from biometric data of the same kind which have been converted by different algorithms (the rejection of claim 27 discloses that signature biometric data is used).

Regarding claim 29, Collot discloses that the conversion of the different sets of reference data and comparative data starts out from different biometric data, which have been converted by the same or by different algorithms (the rejection of claim 17 discloses that the conversion of the biometric data is done with each biometric data using its own key).

Regarding claim 30, Collot discloses that the comparison of several different sets of reference data with several different sets of comparative data, the authentication is decided positively if the majority of comparisons are positive (column 10 line 59 to column 11 line 3 disclose that the comparisons are made if a signature is valid or invalid depending on whether the signature passes a threshold against the reference signature).

***Claim Rejections - 35 USC § 103***

3. Claims 16, 19, 20, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collot in view of Dunn et al (5987155 referred to as "Dunn" herein).

Regarding claim 16, please see the rejection of claim 17 above as Collot discloses all aspects of claim 16 except he does not explicitly disclose that the process is done on a portable data carrier.

Dunn does disclose a portable data carrier that is used in biometric authentication (figure 3 and column 7 lines 12-55 disclose that the smart card, which acts as the data carrier, can process biometric data to check for authentication).

It would have been obvious at the time of the invention to one in ordinary skill in the art to combine in Collot a portable data carrier that has a processor that can compare sets of biometric data as taught by Dunn in order to add another layer of security to the identification system and make for a more flexible system. Also, Collot already uses a terminal to store the biometric information and this is just another way of

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processing the information. Further, both inventions are from the same field of endeavor of biometric identification.

Regarding claim 19, please see the rejection of claim 17 above and the rejection of claim 16 discloses that the smart card has data transferred to it and the smart card has a processor.

Regarding claims 20 and 32, please see the rejection of claim 17 above and the rejection of claim 16 discloses that the portable data carrier is a smart card.

Regarding claims 33, Collot discloses that that the biometric information is a signature including writing dynamics (column 1 line 67 to column 2 line 35 disclose using signatures as biometric information and column 4 line 60 to column 5 line 33 disclose the different writing dynamics that are used).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Akhavannik whose telephone number is 571-272-8622. The examiner can normally be reached on 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on (571)272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SUPERVISORY PATENT EXAMINER